

FAX Transmission Sheet
BURR & BROWN
Intellectual Property Practice

101 South Salina Street, 7th Floor
Syracuse, New York 13202

Telephone: (315) 233-8300
Facsimile: (315) 233-8320

RECEIVED
CENTRAL FAX CENTER
MAY 21 2004
OFFICIAL

OFFICIAL BUSINESS- AFTER FINAL

Date: May 21, 2004

To: Examiner: Tulsidas C. Patel
Art Unit: 2839

Fax No.: 703-872-9306

From: Stephen P. Burr

Subject: U.S. Application Ser. No. 09/819,330
Filed: March 28, 2001
Conf. No.: 4237
Title: OPTICAL FIBER ARRAY

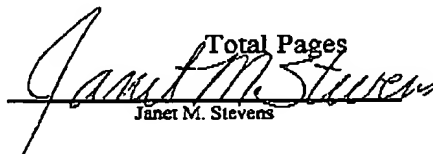
Our Ref.: 939_023

You should receive 7 page(s) including this cover sheet. If you do not receive all pages, please call (315) 233-8300.

CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that the following paper(s) is/are being facsimile transmitted to 703-872-9306 at the Patent and Trademark Office on May 21, 2004:

- Request for Reconsideration Transmittal (1 page) (in duplicate) 2 pages
- Request for Reconsideration (pages 1-4) 4 pages
- This Cover Sheet 1 pages


Janet M. Stevens

Total Pages

7

IMPORTANT - THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT READING, DISSEMINATING, DISTRIBUTING OR COPYING THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND DESTROY THE COMMUNICATION. THANK YOU.

BURR & BROWN

Practitioner's Docket No.: 939_023

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of: Akira MATSUMOTO and Masashi FUKUYAMA

Ser. No.: 09/819,330

Group Art Unit: 2839

Filed: March 28, 2001

Examiner: Tulsidas C. Patel

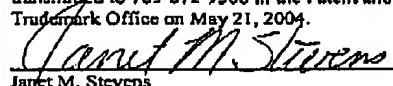
Confirmation No.: 4237

For: OPTICAL FIBER ARRAY

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATION OF FACSIMILE
TRANSMISSION

I hereby certify that this paper is being facsimile
transmitted to 703-872-9306 in the Patent and
Trademark Office on May 21, 2004.


Janet M. Stevens

REQUEST FOR RECONSIDERATION - AFTER FINAL

Sir:

The following remarks are in response to the Office Action mailed December 23,
2003.

Claims 1-17 are pending herein. Claims 1-17 were rejected under §103(a) over Hsu
in view of EP 943,942 (assigned to the same Assignee as that of the present application).
This rejection is respectfully traversed.

The PTO is apparently arguing on page 3 of the Office Action that skilled artisans
would have been motivated, based on disclosure in EP '942, to modify the fiber optic array
disclosed by Hsu in order to obtain an optical fiber array having an adhesive meniscus formed
between (i) opposed sides of the cover plate and the flat surfaces of the substrate, or (ii)
opposed end portions of the substrate and respective surface portions of the cover plate, as
claimed. For the reasons discussed below, Applicants respectfully disagree with the PTO.

Hsu's Fig. 2 shows a fiber optic array including a glass plate 21 positioned on a lower substrate. The glass plate has a narrower width dimension in comparison to the width of the lower substrate. An epoxy 23 fills the void areas between the glass plate, the lower substrate and optical fibers 12. The epoxy secures the optical fibers in V-grooves formed in the lower substrate and also secures the glass plate to the substrate.

Fig. 5 of EP '942 shows an optical fiber array having a fiber presser substrate 72 that has a narrower width as compared to the width of a lower substrate 71. A meniscus portion of adhesive 80 is formed at an interface between portions of the fiber presser substrate and the lower substrate.

The PTO states at the top of page 3 of the Office Action that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the cover plate [of Hsu] smaller than the substrate as taught by EP '942 . . ." The impetus for the alleged motivation is that one would have believed that certain benefits disclosed in EP '942 arising from a cover plate that is narrower in relation to a lower substrate (as shown in Fig. 5 of EP '942) would also occur if Hsu's glass plate were modified to be narrower than the lower substrate. Fig. 2 of Hsu, however, clearly shows that the width of glass plate 21 is already narrower than the width of the lower substrate. Skilled artisans, therefore, would have had no reason to even look to disclosure in EP '942 concerning the width dimension of Hsu's glass plate 21. As such, Applicants respectfully submit that, absent applicants' own disclosure, skilled artisans would not have been motivated to combine Hsu and EP '942. Although the rejection should be withdrawn for this reason alone, there are additional reasons, as explained below.

EP '942 discloses that the adhesive meniscus shape shown in Fig. 5 provides improved strength and reliability "as compared with the case of the adhesive 80 in which the

fiber presser substrate 72 and the lower substrate 71 have almost the same width" (see paragraph [0043] of EP '942). As such, EP '942 discloses that the adhesive strength resulting from a narrower cover plate being bonded to a wider lower substrate is better than that of a cover plate being bonded to a lower substrate of the same width. There is no disclosure or evidence in EP '942, however, that the narrower cover plate/wider substrate combination having an adhesive meniscus portion as shown in EP '942 Fig. 5 provides any benefits when compared to a narrower cover plate/wider substrate combination that includes an adhesive meniscus as shown in Fig. 2 of Hsu (i.e., a meniscus in contact with only the lower surface of the cover plate and the substrate).

Absent some expected benefit(s), skilled artisans would have had no reason to make any modifications to the glass plate/lower substrate combination shown in Hsu's Fig. 2. That is, the PTO has simply failed to cite to any portion of EP '942 or Hsu showing that skilled artisans would understand that a narrower cover plate/wider substrate combination having an adhesive meniscus as shown in EP '942 Fig. 5 would be expected to perform any better than a narrower cover plate/wider substrate combination that has an adhesive meniscus as shown in Fig. 2 of Hsu. Any conclusion by the PTO that the meniscus shape shown in Fig. 5 of EP '942 provides better results than the meniscus shape shown in Fig. 2 of Hsu is based only on speculation. Such speculation cannot form the basis for an obviousness rejection under any circumstances.

In addition to all of the above, the optical fiber array structure shown in Fig. 5 of EP '942 is shown without the presence of any optical fibers in the V-grooves of the lower substrate. Since it is customary for the optical fibers to extend above the upper surface of the lower substrate (see Fig. 2 of Hsu, for example), there is no way to know what shape the meniscus will take in the structure of EP '942 Fig. 5 once fibers are present in the V-grooves. As such, skilled artisans would have had no way of knowing whether the meniscus of

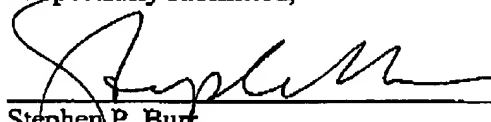
adhesive 80 would even contact the side surfaces of fiber presser substrate 72 if optical fibers were housed in the V-grooves of the lower substrate. This injects yet another level of impermissible speculation on which the PTO's rejection is based.

In view of all of the foregoing, reconsideration and withdrawal of the §103(a) rejection over Hsu in view of EP '942 are respectfully requested.

If the Examiner believes that contact with Applicants' attorney would be advantageous toward the disposition of this case, the Examiner is herein requested to call Applicants' attorney at the phone number noted below.

The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-1446.

Respectfully submitted,



Stephen P. Burr
Reg. No. 32,970

May 21, 2004

Date

SPB:SWC:jms

BURR & BROWN
P.O. Box 7068
Syracuse, NY 13261-7068

Customer No.: 025191
Telephone: (315) 233-8300
Facsimile: (315) 233-8320